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3. Specific Performance (§ 43*)—Oral Contract to Convey—Part Performance.—That the purchaser of land under a verbal contract delivered a horse to the vendor, and cleared a small tract upon which he sowed crop, rented part of the land, and built a brush fence around the clearing, etc., does not show such part performance as entitled him to specific performance, since adequate compensation may be had in damages.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 135, 136; Dec. Dig. § 43.*]

4. Specific Performance (§ 41*)—Verbal Contract to Convey—Part Performance.—To be subject to specific performance because partly performed a verbal contract to convey must be clear in its terms and clearly proven, the acts of part performance must result from the agreement proved, and the agreement must be so far executed that a refusal of full execution would operate a fraud on plaintiff, and deprive him of compensation.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 120, 121, 124, 129, 133; Dec. Dig. § 41.*]

HAMILTON'S ADM'X *v.* ALLEGHANY ORE & IRON CO.

Nov. 19, 1908.

[62 S. E. 957.]

Master and Servant (§ 118*)—Injuries to Servant—Mining—Falling Stones—Timbering—Safe Place.—In an action against a master for injuries to a miner, held, that defendant's failure to extend the timbering over the place where decedent worked was not negligence.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 209; Dec. Dig. § 118;* Mines and Minerals, Cent. Dig. § 219.]

MILTON'S ADM'X *v.* NORFOLK & W. RY. CO.

Nov. 19, 1908.

[62 S. E. 960.]

1. Appeal and Error (§ 614*)—Record—Certification of Evidence—Sufficiency.—Where a bill of exceptions recited that defendant demurred to the evidence set forth, followed by the words "Here insert stenographer's transcript of the evidence," and where the judge certified that that was the evidence and the bill of exceptions was signed

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.